IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1549 OF 2001

1. Mr. Siddalah Naidu and ors. ..Petitioners
Vs.
1. M/s. Tarkeshwar Hatcheries Pvt. Ltd. and anr. ..Respondents

Mr. Kishore Patil i/by Mr. P.N. Joshi for petitioners.
Mr. S.R. Shinde, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : September 04, 2007.

P.C.:

1. Heard Mr. Patil i/by Mr. Joshi the learned counsel for the petitioners. This petition was dismissed for non prosecution on 25/8/2003 and it was restored on 15/4/2004. The conditional order passed on 17/10/2006 so as to supply the address of the original complainant as the notices issued could not be served for a period of about five years and fresh notice was issued. Time to extend the return of notice was also granted. There is no order staying the proceedings before the trial court in Criminal

Case No.63/97 which has been filed for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881.

2. Nothing is known regarding the further progress of the complaint during the last about seven years and in any case the application for discharge filed by the present petitioners at Exh.31 has been dismissed by the learned 13th JMFC on 30/9/2000 and thereafter Criminal Revision Application No.400 of 2000 was filed before the Sessions Court which also came to be dismissed on 13/7/2001.

3. In these obtaining circumstances, it would not be proper to invoke the powers under Section 482 of Cr.P.C. so as to quash the proceeding in C.C. No.63 of 1997. One of the grounds on which the order of process was challenged was regarding non service of notice on some of the accused and on this ground the learned Addl. Sessions Judge by his order dated 13/7/2001 held that no notice was served against the accused no.1-company. It is for the petitioners to bring on record the evidence, documentary as well as

oral in support of their contentions that they were not responsible and in-charge of the day to day activities of the accused-company i.e. S.S.N. Hatcheries Pvt. Ltd. and more so when petitioner no.1 is claimed to be the Managing Director and petitioner nos.2 to 4 are claimed to be the full time Directors.

4. Hence, petition is rejected and in case the Criminal Case No.63 of 1997 is still pending for trial, the trial of the said case is hereby expedited.

(B.H. Marlapalle,J.)